

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

POSTAL RATE AND FEE CHANGES

Docket No. R2006-1

PARTIAL OBJECTIONS OF THE UNITED STATES POSTAL SERVICE TO
UNITED PARCEL SERVICE INTERROGATORIES TO UNITED STATES
POSTAL SERVICE WITNESS JOHN P. KELLEY (UPS/USPS-15-8-9)
(August 4, 2006)

The United States Postal Service hereby files partial objections to interrogatories UPS/USPS-T15-8-9, filed by United Parcel Service on July 27, 2006. Witness Kelley is filing partial answers to these interrogatories today. The interrogatories are reprinted below, and are followed by the bases for these partial objections:

UPS/USPS-T15-8. Refer to USPS-LR-L-35, Table 100. Provide volume data by mail class. The submission of responses under the protective conditions outlined in Presiding Officer's Ruling No. R2006-1/5 is acceptable.

UPS/USPS-T15-9. Refer to USPS-LR-L-35, Table 100. Provide similar analyses or data for years FY2001 through FY2004, including volume data by mail class. The submission of responses under the protective conditions outlined in Presiding Officer's Ruling No. R2006-1/5 is acceptable.

The Postal Service objects to these interrogatories on the bases of untimeliness, irrelevance and potential burden.

Background Information

The library reference at issue, USPS-LR-L-35, was sponsored by witness Kelley and filed under protective conditions. Notice of United States Postal Service of Filing Library Reference USPS-LR-L-35 - Protected Material (June 16, 2006). UPS has reviewed this library reference subject to those protective conditions. See, e.g., Notice

by United Parcel Service of Filing of Certification of Catherine Taylor Pursuant to Presiding Officer's Ruling No. R2006-1/5 (July 11, 2006).

Without abandoning or otherwise waiving its position and arguments concerning the commercial sensitivity of this Library Reference, the Postal Service, for the purpose of supporting these objections, will describe the nature of some of the data that appear in Table 100 of USPS-LR-L-35. Table 100 contains, for every day of the Base Year (FY 2005) raw data from daily FedEx invoices for the Day-turn. The raw data include cubic feet, non-fuel charges, fuel charges, handling charges, total charges, and a cost per cube calculation.

In his partial answers to these interrogatories, witness Kelley states that the volume data that he received when he put Table 100 together -- total cubic feet for which the Postal Service was invoiced by FedEx for the Day turn on each day of the Base Year -- was not broken down by mail class. Partial Response of United States Postal Service Witness John P. Kelley (USPS-T-15) to Interrogatories of United Parcel Service (UPS/USPS-T15-8-9) (August 4, 2006).

Witness Kelley also stated that it was not necessary to break the data down by mail class under the methodology he employed, and that it was his understanding that these raw invoice data are not broken down by mail class. Id. Moreover, he stated that he did not receive data from any year preceding the Base Year (FY 2005), as it was not necessary to perform a similar analysis for earlier years, or review the data from earlier years. Id.

Untimeliness

UPS intervened in this docket on May 25, 2006. Notice by United Parcel Service of Intervention as a Party Under Commission Rule 20 (May 25, 2006). Three weeks later, after protective conditions had been granted for USPS-LR-L-35, the Postal Service filed that library reference with the Commission. Notice of United States Postal Service of Filing Library Reference USPS-LR-L-35 - Protected Material (June 16, 2006).

UPS then waited twenty-five days, until July 11, 2006, to file its first certificate indicating that it would review USPS-LR-L-35. See, e.g., Notice by United Parcel Service of Filing of Certification of Catherine Taylor Pursuant to Presiding Officer's Ruling No. R2006-1/5 (July 11, 2006).

The date for completion of discovery on the Postal Service's direct case was July 14, 2006. Presiding Officer's Ruling R2006-1/12, Adopting Procedural Schedule (June 30, 2006).

UPS did not file these interrogatories until July 27, 2006, thirteen days after the deadline for discovery elapsed, forty-one days after USPS-LR-L-35 was filed with the Commission, and sixteen days after representatives of UPS signed the forms to review these materials.

Accordingly, the Postal Service objects to these interrogatories because they were untimely filed, and there do not appear to be any good reasons for UPS's delay in filing them.

Relevance and Burden

In this case the Postal Service previously has provided annual estimates, for BY 2005, of pieces, pounds, and cubic feet of mail that flew on the FedEx Day-turn. See Response of United States Postal Service to Interrogatory of United Parcel Service, redirected from witness Kelley (USPS-T-15) (UPS/USPS-T15-2) (July 25, 2006). The Postal Service also has provided rough estimates, over a recent three week period, for Day-turn network volume, of the percentages of Priority Mail, First-Class Mail, and Express Mail (a figure that included International Express Mail), measured on a cubic foot basis. See Response of Anthony M. Pajunas to Interrogatory of Douglas F. Carlson (DFC/USPS-45-6) (June 23, 2006).

To the extent that UPS/USPS-T15-8-9 are read to request estimates of daily volume broken down by mail class, the Postal Service objects to them on the bases of relevance and burden.

As witness Kelley stated in his partial responses to these interrogatories, the raw data that he received when he put Table 100 together were not broken down by mail class, it was not necessary to break the data down by mail class under the methodology that he employed, it was his understanding that these raw invoice data are not broken down by mail class, and he did not he did not receive data from any year preceding the Base Year (FY 2005), as it was unnecessary. Partial Response of United States Postal Service Witness John P. Kelley (USPS-T-15) to Interrogatories of United Parcel Service (UPS/USPS-T15-8-9) (August 4, 2006).

Accordingly, the Postal Service objects to these interrogatories on the basis of relevance, as there has been no showing that the information requested is relevant, or likely to lead to relevant evidence.

Moreover, providing estimates, for every day of the Base Year (FY 2005), as requested by UPS/USPS-T-15-8, and for every day during the three previous fiscal years, as requested by UPS/USPS-T-15-9, of daily cube for the FedEx Day-turn broken down by mail class, is a potentially burdensome task. The Postal Service would require at least 40 hours of worktime to run a program and evaluate whether reliable daily estimates can be calculated in the first place. Should reliable estimates prove possible, it is not known, at this time, how many additional hours would be required to answer these interrogatories.

Accordingly, the Postal Service objects to these interrogatories on the basis of burden.

Conclusion

For all of the reasons discussed above, the Postal Service partially objects to interrogatories UPS/USPS-T15-8-9. The Postal Service respectfully submits that it should not be required to produce estimates of such commercially sensitive information.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Ratemaking

Brian M. Reimer
Attorney

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3037; Fax -5402

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

Brian M. Reimer

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3037; Fax -5402
August 4, 2006